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SENSITIVE
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TAGS: [EPET](#) [ECON](#) [EFIN](#) [EINV](#) [PGOV](#) [NI](#)
SUBJECT: EXPERTS ASSESS NIGERIAN PETROLEUM INDUSTRY BILL

REF: A. ABUJA 1836
[1](#)B. ABUJA 1764

SENSITIVE BUT UNCLASSIFIED -- PLEASE HANDLE ACCORDINGLY

SUMMARY

[1](#)1. (SBU) Industry experts continue to review the pros and cons of the proposed Petroleum Industry Bill (PIB). Increased GON revenue, and excluded credits for security, contracting, and finance costs remain key concern for oil companies. The GON has retained the consulting services of an oil and gas expert to better understand the concerns of the oil companies and advise the GON on how to fine tune the PIB. END SUMMARY.

Many Facets of the Petroleum Industry Bill

[1](#)2. (SBU) A Lagos Business School roundtable on the Nigerian oil and gas industry on September 29 focused on the proposed PIB. Energy and taxation law expert Adeoye Adefulu briefed on the PIB version submitted to the National Assembly in December 2008 and which is now back at the committee stage following its second reading. Adefulu said there are now several versions of the bill due to the continued work on the PIB by the Ministry of Petroleum Resources and its interagency team. He said a fourth version, significantly different from the original version, was later submitted to the National Assembly as a memorandum. Adefulu concluded the latter version was an improvement in that it favored the Nigerian government and Nigerian oil companies.

[1](#)3. (SBU) KPMG partner on tax and regulatory services Victor Onyekpa said the PIB aims to increase the government's take, energize the gas sector, and integrate oil and gas into the Nigerian and global economies, but fails to

balance increased government take with sustained industry investment. Onyekpa said a government take of 91 percent under the PIB is too high to allow for industry investment, and this could lead to a decline of GON revenue. He also faulted the need for the Minister of Petroleum Resources to approve the articles of association and dividend payment of the Incorporated Joint Ventures (IJVs), as proposed in the PIB. Onyekpa questioned why private IJVs should require a government official's approval to disburse dividends.

How Nigerian Fiscal Terms Compare Globally

¶4. (SBU) Wood Mackenzie principal analyst Stewart Williams compared the current and proposed fiscal terms for upstream projects in Nigeria with those in the United States, Brazil, Canada, and Venezuela. He concluded that the GON's share of over 90 percent is among the highest globally and is a disincentive to new investment under the existing JV regime in Nigeria. Williams said Nigeria's share of the pre-take (project revenue, less costs) cash flow has remained high at 92-97 percent over the years despite varied levels of profitability in the joint ventures. He estimated the GON had also received \$20.7 billion or 66 percent of pre-take cash flow from Production Sharing Contracts (PSC) projects between 2000 and 2009, as compared with the \$10.5 billion in revenue retained by the companies.

Pros and Cons of the PIB

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¶5. (SBU) Williams continued that the PIB seeks to generate more revenue for the GON and restructure the Nigerian National Petroleum Corporation (NNPC). It introduces flexibility in the government share, and enhances the economic viability of smaller (20 million barrel) fields, which are mostly operated by Nigerians, through a more progressive and generally lower GON share for such fields. Williams said the PIB should create a more transparent and accountable legal framework for procedures, contracts, and payments to modernize the NNPC and make it more able to fund projects.

¶6. (SBU) Williams said a high government take under the PIB fiscal terms is unfavorable for larger (100 million barrel) oil fields and renders deepwater (500 million barrel) oil fields uneconomic even at \$90 per barrel. As much as a third of costs may be disallowed as deductions for tax and fiscal administration of the terms will be more complex with the use of multiple collectors. Williams opined that the PIB's emphasis on local content will likely result in higher costs and project delays in the short term, while gas projects will remain uneconomic even if the GON's share were zero.

PIB May Kill Nigeria's Critical Industry

¶7. (SBU) Financial Derivatives Company Managing Director Bismarck Rewane called the PIB a "mixed blessing." Rewane emphasized that Nigeria's non-oil earnings are not enough to fund its development plan and that Nigeria risks losing investments if the PIB is passed as is. Rewane said the motives of the PIB were noble and nationalistic, but Nigeria's current bargaining power is much lower than it used to be given the prevalence of alternate investment destinations in the Gulf of Guinea. He noted that the robust oil industries in Angola, Sao Tome and Principe, and now Ghana have eroded Nigeria's attraction to foreign investments, especially in light of Niger Delta unrest. He observed that there were deep political undertones to the PIB but urged Nigeria to decide what it really wants from the oil

sector (more revenue, better technology transfer, or better deals from multinational oil companies) and align this with current policies like local content and gas flare-out to get the critical balance required in the PIB.

GON Moves to Engage Industry

¶8. (SBU) According to multiple industry contacts, the GON has retained oil and gas expert Pedro Vermeer to help fine-tune the PIB. Vermeer is expected to consult with oil companies to understand their reservations about the bill and advise the GON on how to accommodate such concerns. Onyekpa of KPMG cited this as progress since the GON had previously rebuffed dialogue with the oil companies under the aegis of the Oil Producer's Trade Section (OPTS). Onyekpa also advised the oil companies to buy more media airtime to educate a broader audience on the shortfalls of the PIB.

COMMENT

¶9. (SBU) The PIB's progress has slowed down in the National Assembly, as more outside experts weigh in on the plusses and minuses of the bill. An IMF delegation that has been asked

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to look at the PIB is in Abuja now. The Minister of Petroleum Resources has stated his intent to garner the support of the World Bank by year-end. The Mission will report on the results of the IMF and World Bank review as soon as their reviews are available.

¶10. (U) ConGen Lagos has coordinated this telegram with Embassy Abuja.
WALSH